

Exhibit D

Kemp, Danielle (CH)

From: Dan Keppler [keppler@kwar.com]
Sent: Thursday, February 03, 2005 5:02 PM
To: Kemp, Danielle (CH); Faris, Michael (CH); Gibbons, William (CH)
Cc: rpalacio@ashby-geddes.com; Joe Arellano
Subject: RE: GST Telecom, Inc. et al. v. John Warta

Attachments: sleet.signed.rev.pdf; Substitution of counsel.pdf



sleet.signed.rev.pdf
(736 KB)



Substitution of
counsel.pdf (3...

Counsel,

We have now filed a substitution of counsel substituting Joe Arellano and our firm for the Kent Custis firm. I believe the substitution and my letter to Judge Sleet have already been served. However, I have attached copies to this e-mail for your convenience.

I request one more time for you to reschedule the deposition of John Goodrich that you scheduled for February 8, 2005. As you know, Joe Arellano is in a trial that is expected to last until Feb. 11. He is not available to participate in the deposition on Feb. 8. We are committed to working with you to find a mutually convenient date for that deposition.

If you will not agree to reschedule Mr. Goodrich's deposition, we will have no choice but to file a motion for a protective order. Under Local Rule 30.2, the filing of such a motion has the effect of staying the deposition. I would prefer not to do that.

Although this issue has already been raised with the court, I'm sure the court would much rather have us reach agreement on scheduling matters. If Mr. Goodrich is not available until after Feb. 28, the court is likely to allow the deposition if we can reach agreement on a date.

Dan

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>>> <WILLIAM.GIBBONS@lw.com> 02/02/05 03:02PM >>>

Mr. Pickle's deposition is scheduled for the morning of February 22 (9:30 a.m., I believe) at the Washington D.C. offices of Weil, Gotshal & Manges. In the event that Mr. Arellano files an appearance on behalf of Mr. Warta, I anticipate working cooperatively with him in all respects, consistent with Court direction, by order or otherwise.

William J. Gibbons

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-----Original Message-----

From: Dan Keppler [mailto:keppler@kwar.com]
Sent: Wednesday, February 02, 2005 4:49 PM
To: Kemp, Danielle (CH); Faris, Michael (CH); Gibbons, William (CH)
Subject: GST Telecom, Inc. et al. v. John Warta

Counsel,

I'm in receipt of your letters to me and to Judge Sleet of today, February 2, 2005. I'm perfectly willing to discuss scheduling matters with you, without the court's assistance. I would appreciate your contacting me about Mr. Arellano's availability before you schedule any more depositions.

As you know, Mr. Arellano is not available for Mr. Goodrich's deposition on February 8, 2005 due to his ongoing trial. I learned from your letters today that you are proposing to take the deposition of Buddy Pickle on February 22, 2005. I believe Ms. Kemp indicated Mr. Pickle resided in the Washington, D.C. area. Please confirm this, and let me know where you propose to take Mr. Pickle's deposition. Thereafter, I will get back to you on Mr. Arellano's availability.

If we have to take any depositions after the discovery cutoff deadline, I suggest we first try to find mutually convenient dates, then clear it with Judge Sleet. I doubt that the court cares to be involved in resolving scheduling disputes. Please feel welcome to call me.

Dan

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